



Decision Number: 048/2023/HCDLC/386

**IN THE MATTER**

of section 219 of the Sale and Supply of Alcohol Act 2012

**AND**

**IN THE MATTER**

of an application by Mathew Hamish Wedd of 64B Abel Tasman Street, Te Aro, Wellington for a new Manager's Certificate

**BEFORE THE LOWER HUTT DISTRICT LICENSING COMMITTEE**

Chair: Cr Simon Edwards

**HEARING** Made on the papers

**DECISION OF THE DISTRICT LICENSING COMMITTEE**

**Decision**

[1] The Lower Hutt District Licensing Committee (the Committee) acting pursuant to the Sale and Supply of Alcohol Act 2012 **DECLINES** the application for a New Manager's Certificate for Mathew Hamish Wedd of 64B Abel Tasman Street, Te Aro, Wellington.

**Introduction**

[2] Mathew Hamish Wedd ("the Applicant") applied for a new Manager's Certificate in accordance with section 219 of the Sale and Supply of Alcohol Act 2012. The application was lodged on 24 July 2023.

[3] The Applicant stated that he was intending to be a Manager at Cheddar Petone located at 181 Jackson Street, Petone, Lower Hutt. The applicant had been employed at Cheddar Petone from July 2023.

[4] The Applicant supplied a copy of his Licence Controller Qualification (LQC) Certificate, a letter confirming his current employer, as well as a further character reference.

[5] The Applicant made the Licensing Inspector aware that he was planning to withdraw his application on 15 August 2023. The Licensing Inspector requested this be made in writing but nothing has been received. Multiple attempts by the Licensing Inspector have been made to follow up on this requirement.

- [6] The Applicant has not been interviewed by the Licensing Inspector. The Licensing Inspector has been unable to establish the Applicant's understanding of the Sale and Supply of Alcohol Act 2012, host responsibility and the licence conditions for the premises he intends to use the Manager's Certificate.
- [7] The Applicant has previously held a Manager's Certificate through Christchurch City Council. The Licensing Inspector has been unable to retrieve any further information from Christchurch City Council.
- [8] The Applicant failed to disclose his criminal convictions when making an application for this Manager's Certificate.
- [9] A final email was sent to the Applicant on 27 September 2023 asking if he wished to pursue the application. A follow up email was sent on 3 October 2023. No response has been received to either.

### **The Applicant**

#### *Suitability*

- [10] The Applicant failed to appear for an interview to assess his understanding of the Sale and Supply of Alcohol Act 2012, host responsibility and the licence conditions for the premises he intended to use the Manager's Certificate for.
- [11] The Applicant was convicted of driving with excess breath alcohol in 2020 and 2021. At the time of the conviction in 2021, the Applicant was unlicensed for driving a motor vehicle. In December 2022 the Applicant was served a written warning for consuming alcohol in a Liquor Ban area. The Applicant has an additional 10 other convictions from 2009 to 2019 which do not appear to involve alcohol.
- [12] Multiple attempts to contact the applicant have been unsuccessful.

### **Reporting Agencies**

- [13] A copy of the application was sent to the New Zealand Police on 27 July 2023. The Police responded stating that they had matters of opposition to the granting of a Manager's Certificate for this Applicant.
- [14] These matters related to Section 222 of the Sale and Supply of Alcohol Act 2012 for criteria to be considered for Manager's Certificate applications which includes:
- the Applicant's suitability to be a manager; and
  - any convictions recorded against the Applicant.

#### *District Licensing Inspector*

- [15] The Committee received a detailed written report from the Licensing Inspector which provided good background to the application.

[16] The Licensing Inspector supports the view of the Police and opposes the granting of the application. This is made on the basis of the suitability of the Applicant to hold a Manager's Certificate and the convictions recorded against the Applicant.

*Committee's Overall Finding of the Licensing Inspector's Evidence:*

[17] The Committee agrees with the recommendation of the Licensing Inspector and the Police.

[18] The Applicant has not made himself available for an interview to discuss his suitability and understanding of the Sale and Supply of Alcohol Act 2012.

[19] The Applicant holds a number of undisclosed criminal convictions which in the opinion of the Committee make him unsuitable to hold a Manager's Certificate.

[20] There has been no communication received from the applicant despite several attempts by officers to contact him.

## **Legislation**

*Sale and Supply of Alcohol Act 2012*

*Section 3*

[21] The general purpose of the Act is for the benefit of the community as a whole and is to put in place a new system of control over the sale and supply of alcohol.<sup>1</sup>

*Section 4*

[22] The object of the Act is to ensure that alcohol is sold and supplied safely and responsibly, and that any harm caused by the excessive or inappropriate consumption of alcohol is minimised.<sup>2</sup>

*Section 219*

*Applications for Manager's Certificates*

- (1) *Every application for a manager's certificate must –*
  - (a) *be made in the name of the person who will hold the certificate if the application is granted; and*
  - (b) *be made in the prescribed form and manner; and*
  - (c) *contain the prescribed particulars; and*
  - (d) *be accompanied by the prescribed fee.*
- (2) *An application must be filed with the following licensing committee:*
  - (a) *where the applicant intends to be the manager of any particular licensed premises, the licensing committee with which the application for the licence was filed; or*
  - (b) *in any other case, the licensing committee for the district in which the applicant is residing.*

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<sup>1</sup> Sale and Supply of Alcohol Act 2012 (the Act), s 3

<sup>2</sup> Sale and Supply of Alcohol Act 2012 (the Act), s 4

Section 222

Criteria for Manager's Certificates

*In considering an application for a manager's certificate, the licensing committee or licensing authority, as the case may be, must consider the following matters:*

- (a) the applicant's suitability to be a manager;*
- (b) any convictions recorded against the applicant;*
- (c) any experience, in particular recent experience, that the applicant has had in controlling any premises for which a licence was in force;*
- (d) any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under [section 218](#);*
- (e) any matters dealt with in any report made under [section 220](#).<sup>4</sup>*

**Case Law**

The case of *Ahmed v Police* refers to [Re Judd \[2014\] NZARLA PH 94](#); [Re NZ LNQ Ltd \[2014\] NZARLA PH 229](#) and the issue of criminal convictions as regards manager's certificates:

The Authority has held that, where an applicant for a manager's certificate has a relevant prior conviction, two years should elapse from the date of the offence before an application will be entertained.

I further refer to [Warren Richard Stewart \[2005\] NZLLA PH 881](#)

*[24] We are to a large extent influenced by the provisions of s.4 of the Act, which assume considerable dominance in all our decision making, and which are set out below. As can be seen, Parliament has specifically required us to exercise our jurisdiction in a manner most likely to promote the reduction of liquor abuse...*

*[25] We believe that raising the bar for the holders of General Manager's Certificates, and keeping it at a certain height, has the potential to bring about a reduction in the abuse of liquor nation-wide. If certain otherwise meritorious applicants suffer in the process, that may not be too high a price to pay in order to achieve this long-term goal.*

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<sup>3</sup> Sale and Supply of Alcohol Act 2012 (the Act), s 219

<sup>4</sup> Sale and Supply of Alcohol Act 2012 (the Act), s 222

I further refer to [Re Jessica Vold et al \[2014\] NZARLA 215-217](#) and [Re Sam William Bailey at al \[2014\] NZARLA 2018-220](#)

*When the matters were called there was no appearance by or on behalf of any of the applicants. We take the inference, therefore, that the applicants have lost interest in pursuing their applications.*

*We are unable to be satisfied as to the matters to which we must have regard in s.121(1) of the Act and, as a matter of law, the applications must be refused.*

### **District Licensing Committee Discussion, Findings, Decision and Reasons**

#### *Section 222 Criteria and Suitability of the Applicant*

- [23] The Committee finds that the suitability of the Applicant has not been met.
- [24] The Applicant has not made himself available for an interview to discuss his suitability and understanding of the Sale and Supply of Alcohol Act 2012.
- [25] The Applicant holds a number of undisclosed criminal convictions which in the opinion of the Committee make him unsuitable to hold a Manager's Certificate. While historical convictions may not always impact an applicant's request for a certificate, in this case, the Committee has found that there is an ongoing issue with reliability. As a result, the Applicant has not proven his suitability to manage a licensed premise.
- [26] There has been no communication from the Applicant despite repeated attempts to contact him.

#### **Conclusion**

- [27] Having considered the application and relevant criteria under ss219 and 222 of the Act, and the purpose and object of the Act, the Committee is satisfied that the considerations fall against the granting of a new Manager's Certificate to Mathew Hamish Wedd of 64B Abel Tasman Street, Te Aro, Wellington. This refusal to approve the new Manager's Certificate is effective from the date of this decision, namely 16 October 2023.

Dated at Lower Hutt this 16th day of October 2023

Signed

A handwritten signature in blue ink, appearing to be 'S. Edwards', with a long horizontal flourish extending to the right.

Cr Simon Edwards  
Chair, Lower Hutt District Licensing Committee